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VIA ELECTRONIC COMMENT FILING SYSTEM

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Meeting
Expanding Flexible Use of the 3.7 to 4.2 GHz Band
GN Docket No. 18-122

Dear Ms. Dortch:

On July 23, 2020, representatives of Intelsat License LLC ("Intelsat") met telephonically with Aaron Goldberger, Wireless Legal Advisor to Chairman Ajit Pai, to discuss two discrete C-band deployment issues: first, how technology upgrades to achieve compression are traditionally handled and what that means with respect to the C-band transition, and second, why Intelsat's proposed satellite deployment plan is necessary to achieve acceleration of the C-band transition as specified in the Federal Communications Commission (the "Commission") C-band Report and Order.[1] Representing Intelsat on the call were Michelle Bryan, Executive Vice President, General Counsel and Chief Administrative Officer; Michael DeMarco, Executive Vice President and Chief Services Officer; Kurt Riegelman, Senior Commercial Advisor – all of Intelsat US LLC – and the undersigned outside counsel.

Technology Upgrades. In order to transition customers out of the 300 MHz of C-band, the Commission intends to auction to flexible use licensees in December 2020. As part of this process, a number of Intelsat's programmer customers must compress their existing signals throughout their distribution networks. As explained in Intelsat's Transition Plan, this technology change begins at the relevant satellite transponder and is implemented out from that point. These types of technology changes have occurred with some frequency over the past twenty years and are driven centrally by programmers that have contracts directly with affiliate earth station operators that must change out equipment when these modifications occur in order to continue to distribute newly compressed programming. Intelsat is firmly of the view that because the technology upgrade is planned centrally and driven and required by Intelsat's Transition Plan, that the costs for these upgrades are correctly categorized as satellite operator

[1] *See* Expanding Flexible Use of the 3.7 to 4.2 GHz Band, *Report and Order & Order of Proposed Modification*, 35 FCC Rcd. 2343 (2020) [hereinafter "Report and Order"].

costs. Arguments in the record that earth station operators should have technology upgrades and equipment such as integrated receivers/decoders ("IRDs") included as part of any lump sum opt out payment seeks to turn this established process, and Intelsat's carefully orchestrated Transition Plan, on their heads.

Intelsat reiterated its deep concern about the misallocation of IRD compression equipment costs because its ability to timely clear 300 MHz could be jeopardized if the misallocation being advocated by some organizations representing earth station operators prevails. As Intelsat has stated, the technology chosen by a programmer to reduce its bandwidth on the satellite must be employed on a comprehensive, system-wide basis to all of that customer's affiliated earth stations; individual earth stations cannot separately make decisions on which technology equipment to employ or the programmer-customer's distribution system will be broken. As such, the compression-related equipment costs must be associated with the satellite operators, as RKF Engineering Solutions, LLC correctly concluded.

Intelsat is in contact with its programmer customers that are planning to compress as part of Intelsat's Transition Plan. These programmers have stated that if their earth station affiliates are not ready to compress because they have not bought or installed the correct compression equipment in the timeframe Intelsat needs to compress to achieve spectrum reclamation, the programmers will be reluctant to allow the signal to be compressed. This would jeopardize the entire C-band transition. Intelsat notes that there have been no credible assurances from stakeholders seeking to have IRDs be part of the lump sum opt out amount that earth station operators that opt out will ensure that any technology upgrade equipment purchase and installation work would occur with the speed required.

Moreover, the fact that the Commission's Preliminary Earth Station list identifies as eligible incumbent earth stations at the antenna level rather than at the site level further exacerbates the potential holdout problem, as many multichannel video programming distributor sites failed to register all antennas at sites where they operate. If compression-related equipment costs are associated with the earth stations and not the satellite operators, then it is conceivable that a significant amount of compression-related equipment costs may not be recognized as reimbursable costs, which could create new and additional disincentives to move Transition Plans forward in a timely manner.

Intelsat seeks to avoid these situations by urging the Commission to create appropriate incentives to allow necessary technology upgrades to proceed in the fashion they traditionally have and be compensable under the Commission's reimbursement rubric. Intelsat should not be forced either to move forward to compress over the programmer's objection (and leave multiple affiliates and their viewers without access to the compressed programming) or not compress the customer and thus be unable to clear the lower 300 MHz of the C-band spectrum. Intelsat urges the Commission to ensure that compression-related equipment cost remain tied to the transponder, consistent with the way other upgrades have been handled, in order to ensure that a programmer's affiliated antennas are ready to receive the compressed signal within the timeframe necessary to meet the accelerated deadlines.

Satellite Deployment Plans. As explained in its initial Transition Plan filing, Intelsat is proposing to compress certain customers to reduce the number of transponders being used to deliver their current service so that 300 MHz can be repurposed for new 3.7 GHz licensees. In order to achieve accelerated clearing in the timeline set out by the Commission, Intelsat's Transition Plan describes a satellite deployment program that necessarily is well underway. The Plan reflects how Intelsat customers utilize the company's satellites today, as well as the

customer migrations that will need to occur in order to repack and compress a select set of customers whose compression will yield the most spectrum reclamation.[2] This plan reflects two years of planning that led to defining satellite capacity needs in granular detail. Intelsat reiterated its commitment to this process, noting that when the Commission asked satellite operators to find a plan to free up an additional 100 MHz, Intelsat emphasized that it would necessarily require more satellites and more time. The Commission took the 300 MHz offered as part of its groundbreaking Report and Order in this proceeding. Living up to its commitment, Intelsat immediately commenced the process of procuring replacement satellites based on its understanding that it would be reimbursed for the cost of the satellites. The Commission should not now second guess the deployment plan offered to the Commission to support its goal of transitioning 300 MHz while maintaining satellite service continuity.

Intelsat requires seven satellites be manufactured, launched and deployed into service during the clearing timeframe to ensure that it can continue to provide the same level of service to its customers that they have contracted for today – including for critical restoration service in the event of a failure of their primary service. Intelsat is under contract for six of these seven satellites – and plans to sign the last contract next month, with the last satellite program scheduled to start in September 2020. These satellites include payloads with additional frequency bands, as Intelsat has such payloads in space today that need to be replaced to provide service continuity to current customers. Intelsat has worked with each of its satellite manufacturers to ensure that the costs for any non-C-band payload is broken out appropriately and that alternative payloads do not add to the cost of the C-band transition, something that can be confirmed by the Commission's Relocation Cost Clearinghouse.

Please contact the undersigned with any questions regarding this letter.

Respectfully submitted,

Laura H. Phillips
Counsel for Intelsat License LLC

cc: Aaron Goldberger

[2] Intelsat provided detailed documentation in its Transition Plan on where each customer will ultimately be loaded at the end of the clearing process.